

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

MOBILITY WORKX, LLC,

Plaintiff,

v.

**CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS,**

Defendant.

Civil Action No.: 4:17-CV-00872-ALM

JURY TRIAL DEMANDED

MOTION TO QUASH TRIAL SUBPOENA OF PAUL VENIZELOS

Plaintiff Mobility Workx, LLC (“Mobility”) served a trial subpoena on Defendant Cellco Partnership d/b/a Verizon Wireless (“Verizon”)’s employee, Mr. Paul Venizelos. *See* Ex. 1 (the “Subpoena”). Verizon and Mr. Venizelos respectfully submit that the Court must quash this Subpoena because the Subpoena requires compliance beyond the geographical limits specified in Rule 45 of the Federal Rules of Civil Procedure.

I. APPLICABLE LAW

Quashing a subpoena is required when the subpoena “requires a person to comply beyond the geographical limits specified in Rule 45(c).” FED. R. CIV. P. 45(d)(3)(A)(ii). Under Rule 45 of the Federal Rules of Civil Procedure, “[a] subpoena may command a person to attend a trial . . . only as follows: (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person.” FED. R. CIV. P. 45(c)(1)(A).

Motions to quash must be “timely.” FED. R. CIV. P. 45(d)(3)(A). “While the Rules do not define timeliness, courts generally have read ‘timely’ to mean within the time set for compliance with the subpoena.” *Scrum Alliance Inc. v. Scrum, Inc.*, No. 4:20-cv-227-ALM, 2020 U.S. Dist.

LEXIS 209352, at *4 (E.D. Tex. Nov. 9, 2020). ¹

II. ARGUMENT

The Subpoena served by Mobility on Mr. Venizelos is defective and must be quashed because it violates the express terms of Rule 45. The Subpoena calls for compliance beyond the geographical limits specified in Rule 45 of the Federal Rules of Civil Procedure, which allows for compliance within 100 miles of where the subpoenaed individual resides, is employed, or regularly transacts business in person. FED. R. CIV. P. 45(c)(1)(A).

The Subpoena calls for Mr. Venizelos's compliance by attending trial in the above-captioned case at the Paul Brown United States Courthouse at 101 E. Pecan Street, Sherman TX, 75090 on July 26th, 2021. Ex. 1. Mr. Venizelos resides and works in Ridgewood and Bedminster, New Jersey, approximately 1,500 miles away from Sherman, Texas. *See* Ex. 2, at ¶¶ 2, 4. Mr. Venizelos does not regularly transact business in person in Texas. Ex. 2, at ¶ 5. Because Mr. Venizelos does not live, work, or regularly transact business in person within the geographical scope of the place for compliance, the Subpoena is defective and must be quashed. Fed. R. Civ. P. 45(d)(3)(A)(ii); *see also, e.g., Geosouthern Energy Corp. v. Certain Underwriters at Lloyd's London*, No. 5:15-cv-623-RCL, 2017 U.S. Dist. LEXIS 215292, at *7-8 (W.D. Tex. Feb. 24, 2017) (quashing deposition subpoenas for witnesses more than 200 and 1,500 miles away from the place for compliance, stating, "Plaintiff has provided no evidence that [the subpoenaed individual] lives, works, or regularly transacts business in Houston, Texas, and has pointed to no authority allowing this Court to enforce the subpoena here. Accordingly, . . . the Court must quash the subpoena under Rule 45.").

¹ This motion is timely filed before the time for compliance, July 26, 2021.

III. CONCLUSION

For the foregoing reasons, Verizon and Paul Venizelos respectfully request that the Court quash the Subpoena served on Mr. Venizelos.

Dated: July 20, 2021

Respectfully submitted,

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*Attorneys for Defendant Cellco Partnership,
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CERTIFICATE OF CONFERENCE

I hereby certify that David Randall and Michael Machat, counsel for Plaintiff, and I met and conferred on July 20, 2021. Plaintiff opposes the motion.

/s/ Ross R. Barton

CERTIFICATE OF SERVICE

I certify that the foregoing document was served electronically on July 20, 2021, on all counsel who have consented to electronic service.

/s/ Ross R. Barton